

APPEAL NO. 040501
FILED APRIL 26, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 3, 2004, with the record closing on February 5, 2004. The hearing officer determined that the compensable injury of _____, includes the current condition and injury to the lumbar spine at L5-S1. The appellant (carrier) appealed this determination, asserting that the evidence was insufficient to support the hearing officer's determination. The appeal file does not contain a response from the respondent (claimant).

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____, but did not stipulate as to what the compensable injury was. In evidence is a Decision and Order dated June 29, 2000, that reflects that the hearing officer determined that the "Claimant sustained a compensable low back injury on _____ when she aggravated a pre-existing diffuse annular disc bulge [at L4-5] while attempting to lift a box of apples." Therefore, the Decision and Order dated June 29, 2000, reflects that the claimant sustained a compensable injury at L4-5 on _____. At issue was whether the compensable injury of _____, includes the current condition and injury to the lumbar spine at L5-S1.

The extent-of-injury determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In the instant case, the hearing officer was persuaded by the claimant's testimony and her evidence that her compensable injury of _____, includes the current condition and injury to the lumbar spine at L5-S1. In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The record does not support the carrier's assertion that the hearing officer failed to show impartiality and render a decision before hearing all of the evidence. We perceive no error.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS HOSPITAL INSURANCE EXCHANGE** and the name and address of its registered agent for service of process is

**ROBERT LAWRENCE DION
6300 LA CALMA, SUITE 550
AUSTIN, TEXAS 78761.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge